

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

TOO MARKER PRODUCTS, INC. and  
IMAGINATION INTERNATIONAL, INC.,

Plaintiffs/Counter Defendants,

v.

CREATION SUPPLY INC.,

Defendant/Counter Plaintiff/Third-  
Party Plaintiff,

v.

ALPHA ART MATERIALS, CO., LTD.,

Third-Party Defendant/Cross  
Plaintiff/Counter-Cross Defendant,

v.

TOO MARKER PRODUCTS, INC. and  
IMAGINATION INTERNATIONAL, INC.,

Cross Defendants/Counter-Cross  
Plaintiffs.

Case No. 3:12-cv-00735-BR

LIMITED JUDGMENT AND PARTIAL  
DISMISSAL WITHOUT PREJUDICE

Based on the record in this case, Too Marker Products, Inc.'s and Imagination International, Inc.'s (collectively the "Too Marker Parties") acceptance of Alpha Art Materials, Co., Ltd.'s ("Alpha") Offer of Judgment, and the Unopposed Joint Motion for Entry of Limited Judgment and Partial Dismissal Without Prejudice,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that:

1. Alpha asserted crossclaims against the Too Marker Parties seeking declaratory judgments of non-infringement and invalidity with respect to the certain registered marks and trade dress including:
  - (a) U.S. Trademark Registration No. 3,629,617 ("‘617 Mark");
  - (b) U.S. Trademark Registration No. 4,113,852 ("‘852 Mark") (the '617 Mark and the '852 Mark are collectively referred to as the "Registered Marks");
  - (c) the product configuration of the COPIC line of markers.
2. The Too Marker Parties asserted four counter crossclaims against Alpha as follows:
  - (a) infringement of U.S. Trademark Registration No. 3,629,617 ("‘617 Mark") arising out of Alpha's importation and sale of MEPXY markers;
  - (b) infringement of U.S. Trademark Registration No. 4,113,852 ("‘852 Mark") (the '617 Mark and the '852 Mark are collectively referred to as the "Registered Marks") arising out of Alpha's importation and sale of MEPXY markers;

Page 1 - LIMITED JUDGMENT AND PARTIAL DISMISSAL WITHOUT PREJUDICE

Exhibit A  
Page 2 of 3

(c) unfair competition under Lanham Act § 43 with respect to the product

configuration of the COPIC line of markers arising out of Alpha's

importation and sale of MEPXY markers; and

(d) common law trademark infringement with respect to the product

configuration of the COPIC line of markers arising out of Alpha's

importation and sale of MEPXY markers.

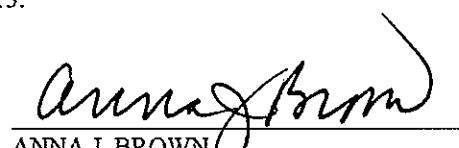
3. The Too Marker Parties have accepted [Dkt. No. 88] Alpha's Offer of Judgment dated as of July 26, 2013 [Dkt. No. 89], and this Limited Judgment shall be subject to the terms thereof except as provided in paragraph 6 below.

4. Accordingly, and without admission of liability by any party, a monetary judgment in the amount of \$40,000 is entered in favor of the Too Marker Parties and against Alpha to the extent that claims arise out of the importation or sale of MEPXY markers prior to August 1, 2013, the date of acceptance of the Offer of Judgment.

5. Alpha's crossclaims are dismissed without prejudice.

6. Each party will bear its own costs and attorney fees.

DATED this 16<sup>th</sup> day of August, 2013.



ANNA J. BROWN  
United States District Judge

Page 2 - LIMITED JUDGMENT AND PARTIAL DISMISSAL WITHOUT PREJUDICE

Exhibit A  
Page 3 of 3